

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO <i>ex rel.</i>)	
State Engineer,)	
)	
Plaintiff,)	No. 69cv07941-BB
)	
)	Rio Chama Stream System
)	
ROMAN ARAGON, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**MOTION TO AMEND SPECIAL MASTER REPORT RECOMMENDING
FURTHER PROCEEDINGS (NO. 10152)**

The United States of America (“United States”) hereby moves the Special Master to further amend the *Special Master Report Recommending Further Proceedings* (as amended June 6, 2011, No. 10152) by deleting references to Ohkay Owingeh’s water rights for the property identified as “Tract 24.2 under the Chamita Ditch.” In support of this motion, the United States asserts:

1. Pursuant to the Special Master’s November 3, 2004 *Scheduling Order on Pueblo Claims* (No. 7639), at Page 3, Paragraph 2.2, Pueblo Claims Subproceeding 1 is defined to “consist of the adjudication of all claims to water rights on behalf of the Pueblo of San Juan based on evidence of specific past and present uses of water by the Pueblo.” That definition draws no distinction between “federal-law based rights” and “state-law based rights,” such as the Special Master appears to contemplate at page 5 of her June 6 Report.

2. The property identified as Tract 24.2 in the New Mexico OSE Rio Chama Hydrographic Survey of 1959 (which is also known as Private Claim 119, parcel

2) is the same parcel of land as Tract 12 listed in Table 3 of the March 30, 2007 *United States' Subproceeding Complaint* (No. 8609) and depicted on Map 1 filed with that pleading. The *United States Subproceeding Complaint* asserts, *inter alia*, that San Juan Pueblo (now known as Ohkay Owingeh) has a right to irrigate that tract with an aboriginal priority. Accordingly, the tract is already included within the proceedings subject to the Second Amended Scheduling Order on Pueblo Claims (May 10, 2010, No. 9713).

3. On June 15, 2011, the undersigned counsel for the United States provided a draft of the present motion to counsel for the State and counsel for Ohkay Owingeh, who have indicated that they do not oppose this motion.

WHEREFORE the United States respectfully asserts that there is no need for the Special Master's Report to make reference to the tract in question and that, in order to avoid confusion of the record, such references should be removed.

Electronically Filed

/s/Bradley S. Bridgewater

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on June 22, 2011, I filed the foregoing *Motion To Amend Special Master Report Recommending Further Proceedings (No. 10152)* electronically through the CM/ECF system, which caused CM/ECF Participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

_____/s/_____
Bradley S. Bridgewater